



IRA A. JACKSON
COMMISSIONER

The Commonwealth of Massachusetts
Department of Revenue
Leverett Tiltonstall Building
100 Cambridge Street, Boston 02204

August 13, 1985

You request a ruling regarding the application of the Massachusetts sales tax to monthly access charges for use of the ("System"). You state that subscribers may lease or purchase terminals which are linked to a central computer in another state. The cost for monthly access is the same for each user, regardless of any lease or purchase of a terminal.

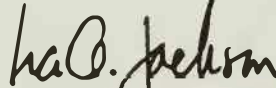
Massachusetts General Laws Chapter 64H, Section 2 imposes a five percent sales tax on retail sales of tangible personal property. A sale is defined as any transfer of title or possession for consideration, including a lease or rental. G.L. c. 64H, § 1(12)(a).

The Sales and Use Tax Regulation on Automatic Data Processing provides that

[a] transaction whereby a person secures access, by means of telephone or other lines, to equipment not on his premises, is not subject to tax if the person or his employees do not operate the equipment or direct and control its operation while on the premises where the equipment is located. However, the sale or lease of a computer terminal generally is subject to tax, even if the terminal is to be used by a customer on his premises in connection with remote processing activities not themselves taxable. 830 CMR 64H.06(5).

The subscribers to the System are purchasing access to a central computer in another state. They are thereby securing access to equipment which is not on their premises and not under their direction or control. Therefore, the monthly access charges are not subject to sales tax. Any charges for the lease or rental of terminals are subject to sales tax. 830 CMR 64H.06(5).

Very truly yours,

A handwritten signature in dark ink, appearing to read "H. O. Johnson". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Commissioner of Revenue

JES:gh

LR 85-61